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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,

Case No. 3:13-cr-00084-LRH-WGC

10 Plaintiff,

ORDER

11 v.

12 ERICA LEIGH MORRISON,

13 Defendant.

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15 Defendant Erica Leigh Morrison moves for a compassionate release (ECF No. 42), under
16 18 U.S.C. § 3582(c)(1)(A)(i). The Government filed an opposition (ECF No. 43), and Defendant
17 replied (ECF No. 44). For the reasons contained within this Order, the Court grants Morrison's
18 motion.

19 **I. BACKGROUND**

20 Between June 10 and August 9, 2013, Defendant, Erica Leigh Morrison, committed six
21 bank robberies. At each robbery, Morrison entered the bank and gave the bank teller a robbery
22 demand note which threatened varying degrees of violence, including bombing the bank. Over
23 those two months, Morrison absconded with \$18,948 from her bank robberies. Officers ultimately
24 identified Morrison as the culprit and arrested her on August 16, 2013. Morrison pled guilty to
25 count six of the criminal indictment pursuant to a written plea agreement, in which she admitted
26 the conduct of all six robberies. The Court sentenced Morrison to 120-month imprisonment,
27 followed by three years of supervised released, on June 16, 2014. She is serving her sentence at
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1 FCI Dublin, a minimum security prison, located in Dublin, California. Morrison is due to be
2 released in March 2022.

3 **II. LEGAL STANDARD**

4 Under 18 U.S.C. § 3582(c), "the court may not modify a term of imprisonment once it has
5 been imposed," except under specified conditions. For a motion brought under § 3582(c)(1)(A)(i),
6 those specified conditions include the exhaustion of administrative remedies or the Bureau of
7 Prison's inaction for thirty days. The Court initially denied without prejudice Defendant's motion
8 for compassionate release for failure to exhaust her administrative remedies. ECF No. 41.
9 Morrison now shows that the Warden has not responded within 30 days to her May 18, 2020
10 petition for compassionate release; accordingly, the Court will decide her motion on the merits.

11 18 U.S.C. § 3582(c)(1)(A) provides:

12 [T]he court, . . . may reduce the term of imprisonment (and may impose a term of
13 probation or supervised release with or without conditions that does not exceed the
14 unserved portion of the original term of imprisonment), after considering the factors
set forth in section 3553(a) to the extent that they are applicable, if it finds that –

15 (i) extraordinary and compelling reasons warrant such a reduction; or

16 (ii) the defendant is at least 70 years of age, has served at least 30 years in prison,
17 pursuant to a sentence imposed under section 3559(c), for the offense or offenses,
18 for which the defendant is currently imprisoned, and a determination has been made
by the Director of the Bureau of Prisons that the defendant is not a danger to the
safety of any other person or the community, as provided under section 3142(g);

19 and that such a reduction is consistent with applicable policy statements issued by
the Sentencing Commission[.]

20 The relevant United States Sentencing Guidelines policy statement provides that the Court may
21 reduce a term of imprisonment if the Court determines that:

22 (1) (A) extraordinary and compelling reasons warrant the reduction; or

23 (B) the defendant (i) is at least 70 years old; and (ii) has served at least 30
24 years in prison pursuant to a sentence imposed under 18 U.S.C. 3559(c) for
the offense or offenses for which the defendant is imprisoned;

25 (2) the defendant is not a danger to the safety of any other person or to the
26 community, as provided in 18 U.S.C. 3142(g); and

27 (3) the reduction is consistent with this policy statement.
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1 U.S. SENTENCING GUIDELINES MANUAL § 1B1.13 (U.S. SENTENCING COMM’N 2018).
2 Extraordinary and compelling reasons include (1) the medical condition of the defendant, (2) the
3 age of the defendant, (3) family circumstances, or (4) any other extraordinary or compelling
4 reason, as determined by the Director of the Bureau of Prisons. *Id.* § 1B1.13 app. n.1.

5 **III. DISCUSSION**

6 The Court finds that extraordinary and compelling reasons exist in this case. After
7 reviewing Morrison’s medical record, the Court finds that her asthma and other health concerns
8 are stable and appear under control. The Court is also not persuaded that Morrison’s health
9 concerns, coupled with the prison conditions at FCI Dublin support a finding of extraordinary
10 circumstances: currently, the BOP is reporting that no inmates or staff member are positive for the
11 virus, that ten inmates and six staff have recovered from the virus, and that there have been no
12 inmate or staff deaths from the virus.¹ However, the Court is persuaded that extraordinary
13 circumstances exist due to the family considerations in this case. The Court is concerned that if
14 not released, Morrison’s children, ages fifteen and sixteen, who both have their own health
15 considerations that need attention and ongoing doctors’ appointments, will not be cared for. Their
16 current caregiver, Morrison’s 60-year-old mother, has spinal stenosis and degenerative disc disease
17 and is unable to sit or stand for long periods of time. At times, she is no longer able to take the
18 children to their respective medical appointments and is limited in her physical ability to take care
19 of them—it appears that the caregiving relationship has, to some extent, flip-flopped as, today,
20 their grandmother may need the children to help attend to her care. The Court finds that given
21 these considerations, extraordinary and compelling reasons warrant a reduction in Morrison’s
22 sentence to time served.

23 The section 3553(a) factors further support early release. Morrison was convicted of a
24 serious crime—bank robbery—and admitted facts that show she committed six bank robberies and
25 threatened violence against multiple bank tellers, including making multiple bomb threats.
26 However, the record also supports that Morrison has had a traumatic life: her past is ripe with a
27 history of sexual abuse from early childhood on, her own physical and mental abuse by numerous

28 ¹ <https://www.bop.gov/coronavirus/> (last visited November 19, 2020).

1 boyfriends, and the physical abuse by others in her life. The record supports that she committed
2 the bank robberies to obtain money for her then abusive boyfriend, who was beating her and
3 threatening to beat and/or kill her if she did not bring home money. At the time of initial sentencing,
4 the Court considered Morrison's life history and ultimately sentenced her in the midrange of the
5 guidelines in the hope that she would get the substance abuse and mental health treatment that she
6 needed. Now, more than seven years from her arrest and detention, the Court is impressed by
7 Morrison's success while incarcerated at Dublin: she has taken educational courses, parenting
8 courses, is participating in counseling for her post traumatic stress disorder and her other mental
9 health conditions, and has had little disciplinary action. Given all of these considerations, the Court
10 finds that a sentence of time served reflects the seriousness of her crimes, promotes respect for the
11 law, provides adequate punishment for her crimes, and adequately deters this conduct. The Court
12 further finds that she is no longer a threat or danger to the public and that she has a positive attitude
13 about her parental obligations and an ability and promise to achieve success, responsibility, and
14 happiness in her life.

15 **IV. CONCLUSION**

16 IT IS THEREFORE ORDERED that Defendant's renewed emergency motion for
17 compassionate release (ECF No. 42) is **GRANTED**.

18 IT IS FURTHER ORDERED that the Court reduces Morrison's 120-month sentence to
19 **TIME-SERVED**, making Morrison eligible for immediate release.

20 IT IS FURTHER ORDERED that upon release from imprisonment Morrison shall be on
21 supervised release for a term of three (3) years and shall be subject to the conditions of supervision
22 previously imposed by the sentencing Court.

23 IT IS FURTHER ORDERED that the Clerk of Court is to enter an amended **JUDGMENT**,
24 providing that all terms and conditions of Morrison's supervised release are to remain the same.

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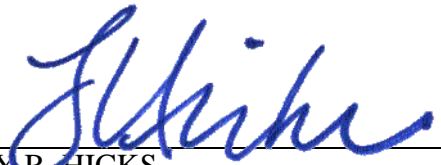
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1 IT IS FURTHER ORDERED that Morrison's release be delayed 14 days to ensure a
2 sufficient period of quarantine so that she will not potentially infect her mother and children, and
3 allow the Bureau of Prisons time to complete the statutory requirements prior to her release.

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5 IT IS SO ORDERED.

6 DATED this 19th day of November, 2020.

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9 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE